

1. **Party or parties** (answer one):

a. ☒ This statement is submitted by party (name): Six4Three, LLC, a Delaware limited liability company

b. ☐ This statement is submitted **jointly** by parties (names):

2. **Complaint and cross-complaint** (to be answered by plaintiffs and cross-complainants only)

a. The complaint was filed on (date): 4/10/2015

b. ☐ The cross-complaint, if any, was filed on (date):

3. **Service** (to be answered by plaintiffs and cross-complainants only)

a. ☒ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.

b. ☐ The following parties named in the complaint or cross-complaint

(1) ☐ have not been served (specify names and explain why not):

(2) ☐ have been served but have not appeared and have not been dismissed (specify names):

(3) ☐ have had a default entered against them (specify names):

c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

4. **Description of case**

a. Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):

Plaintiff alleges unfair business practice (Civ. Code § 17200), breach of contract, concealment, intentional and negligent misrepresentation, interference with contract and interference with prospective economic relations.

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DEFENDANT/RESPONDENT: Facebook, Inc., a Delaware corporation; et al.	CIV533328

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*
- The fifth amended complaint prays for actual damages according to proof as well as punitive and treble damages, where available, and certain mandatory and prohibitory injunctions. Plaintiff estimates that its damages exceed \$1.15 million on account of expenditures and lost revenue.
- ☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*
5. **Jury or nonjury trial**  
The party or parties request ☒ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*
6. **Trial date**  
a. ☐ The trial has been set for (date):  
b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain):*  
c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability):*
7. **Estimated length of trial**  
The party or parties estimate that the trial will take *(check one)*:  
a. ☒ days *(specify number)*: Three (3) Court Days  
b. ☐ hours (short causes) *(specify)*:
8. **Trial representation** *(to be answered for each party)*  
The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:  
a. Attorney: **\*\*Conditional upon extension of limited scope representation; trial not included under present scope.\*\***  
b. Firm:  
c. Address:  
d. Telephone number:  
e. E-mail address:  
f. Fax number:  
g. Party represented:  
☐ Additional representation is described in Attachment 8.
9. **Preference**  
☐ This case is entitled to preference *(specify code section)*:
10. **Alternative dispute resolution (ADR)**  
a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.  
(1) For parties represented by counsel: Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.  
(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.  
b. **Referral to judicial arbitration or civil action mediation** (if available).  
(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.  
(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.  
(3) ☒ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:  
Amount in controversy exceeds limitation.



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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form <b>are willing</b> to participate in the following ADR processes ( <i>check all that apply</i> ):	If the party or parties completing this form in the case <b>have agreed</b> to participate in or have already completed an ADR process or processes, indicate the status of the processes ( <i>attach a copy of the parties' ADR stipulation</i> ):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other ( <i>specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

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**11. Insurance**

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

**13. Related cases, consolidation, and coordination**

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

**14. Bifurcation**

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

- ☐ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

**16. Discovery**

- a. ☐ The party or parties have completed all discovery.
- b. ☐ The following discovery will be completed by the date specified (*describe all anticipated discovery*):
- | <u>Party</u> | <u>Description</u> | <u>Date</u> |
|--------------|--------------------|-------------|
|--------------|--------------------|-------------|

- c. ☒ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

Discovery is presently stayed. Plaintiff suggests and requests that discovery continue to be stayed pending writ of mandate regarding the peremptory challenge to judicial officer brought by Plaintiff's counsel.

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## 17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

## 18. Other issues

- ☒ The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

SEE ATTACHMENT

## 19. Meet and confer

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):  
Parties have met and conferred prior to earlier case management conferences. Parties have not attempted to meet and confer preparatory to the within case management conference.
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): 1

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: July 12, 2019

Reno F.R. Fernandez III

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.



SHORT TITLE: SIX4THREE, LLC v. FACEBOOK, INC., et al.	CASE NUMBER: CIV 533328
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ATTACHMENT (Number): one (1)

(This Attachment may be used with any Judicial Council form.)

1. The within action is not ready for trial.
2. Plaintiff's present counsel was retained under a notice of limited scope representation on June 28, 2019, and has not had sufficient time to prepare for trial.
3. Plaintiff's counsel brought a peremptory challenge to judicial officer, which the Court struck. Plaintiff will take a writ of mandate from the Court's order striking the peremptory challenge within ten (10) days of notice of entry of the order, subject to extension for service. (Code Civ. Proc. § 170.3(d).)
4. Plaintiff filed a statement of disqualification on July 12, 2019, objecting to the Honorable V. Raymond Swope conducting trial or any hearings, including the within case management conference, pursuant to Code of Civil Procedure § 170.3(c)(1). Plaintiff contends that any action by the Judge will be void.
5. Discovery is presently stayed. Plaintiff suggests and requests that the discovery stay remain in place pending resolution of the aforesaid writ of mandate.
6. Plaintiff further suggests and requests that all proceedings herein be stayed pending resolution of the writ of mandate. Staying the proceedings will avoid irreparable harm to Plaintiff should the Court's order striking the peremptory challenge be reversed, such irreparable harm being proceeding with hearings and trial before a disqualified judicial officer. The stay will preserve judicial resources and reduce likely expense and delay for the parties by avoiding proceeding before a disqualified judicial officer and then re-litigating the same issues before a new judge. By contrast, staying the proceedings will not unduly prejudice or harm any party.
7. Plaintiff reserves its right to request a stay of proceedings pending resolution of the writ of mandate from the court of appeals.
8. Plaintiff reserves its right to bring a challenge for cause pursuant to Code of Civil Procedure § 170.1.

WHEREFORE, Plaintiff suggests and requests that the Court:

1. Continue the case management conference for approximately three months, or more, without setting a schedule for trial;
2. Allow the stay of discovery to remain in place; and
3. Stay all proceedings pending resolution of the aforesaid writ of mandate.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

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(Add pages as required)

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7 Counsel for Birnbaum & Godkin, LLP

8 ///


9 ///

10 As follows:

11 ☒ **BY ELECTRONIC SERVICE:** By electronically mailing a true and correct copy  
12 through the Macdonald Fernandez LLP electronic mail system from to the email  
13 addresses set forth above.

14 Executed on July 12, 2019, at San Francisco, California.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing  
16 is true and correct and that I am employed in the office of a member of the bar of this Court, at  
17 whose direction the service was made and that the foregoing is true and correct.

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Samantha G. Brown